

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 10, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF#07MD-076

MAUI

Grant of Term Non-Exclusive Easement to O. Joachim and Inge J. Granzow, Trustees of the O. Joachim Granzow and Inge Granzow Family Trust Dated June 1, 1990, and Joachim Wilhelm Granzow and Christian Lars Granzow, for Seawall and Rock Revetment Purposes, Waiohuli-Keokea Homesteads, Kihei, Maui, Seaward of Tax Map Key: (2) 3-9-012:004.

APPLICANT:

O. Joachim and Inge J. Granzow, Trustees of the O. Joachim Granzow and Inge J. Granzow Family Trust dated June 1, 1990; Joachim Wilhelm Granzow, and Christian Lars Granzow, Both Single Individuals, as Tenants in Common.

LEGAL REFERENCE:

Section 171-13 and -53(b), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located seaward of Waiohuli-Keokea Homesteads, Kihei, Maui, identified by Tax Map Key: (2) 3-9-012:004, as shown on the attached map labeled Exhibit A. Also refer to the attached Topographical photo of the subject area labeled Exhibit B and site photos of the current seawall/revetment dated 3/19/07, labeled Exhibits C and D.

AREA:

1,500 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CURRENT USE STATUS:

Unencumbered with encroachments.

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair,
replace and remove existing seawall over, under and across
State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff
appraisal establishing fair market rent, subject to review and
approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules, Section 11-
200-8A, the project is considered to be exempt from the
preparation of an environmental assessment pursuant to
Exemption Class 4, which states "Minor alterations in the
conditions of land, water, or vegetation". Please refer to
Exemption Notice attached as Exhibit "F".

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not
required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine initial one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Remove any barriers that may inhibit lateral access (no trespassing signs, walls, gates, hedges, etc...)
- 4) Install and Maintain signage that indicates public Lands, Public Access Allowed.

REMARKS:

On May 12, 2006, the Office of Conservation and Coastal Lands received a request to resolve a State land encroachment seaward of TMK: (2) 3-9-012:004. The encroachment consists of approximately 1,500 square feet of an existing seawall and loose rock revetment. It appears that the previous property owner prior to 1964 put the revetment in place, in an attempt to prevent further erosion of subject private property.

By letter dated May 18, 2006, the Office of Conservation and Coastal Lands indicated that staff was unable to locate any construction permit or other land use authorization permits at the State or at the County Planning / Building Department for the subject improvements. However, according to a letter dated April 7, 1980 from the Deputy Planning Director to the Corporation Counsel of Maui, the structure (revetment) may have been in existence prior to October 1964.

OCCL has determined that allowing the encroachment to remain through the issuance of an easement would have no adverse impacts on natural resources, including beach resources and public access. Therefore, OCCL has no objections to this easement request.

The Maui District Land Office sought comments for the proposed seawall / Rock Revetment from the following agencies:

Agency	Comments
Office of Hawaiian Affairs	See Below
Office of Conservation and Coastal Lands	See remarks section
County of Maui - Public Works Department	None provided
DLNR - Historic Preservation	None provided

DLNR - Water Resource Management	None provided
Department of Hawaiian Home Lands	None provided
County of Maui - Planning	See Below
Department of Agriculture	None provided

Agency Comments Received:

County of Maui Department of Planning provided the following comments:

1. The Department requests that the Applicant not encroach on State Conservation Lands and to move the rock revetment onto its own private property;
2. If the State determines that the revetment, or a portion of the revetment must remain in State conservation lands, then the Department asks that the Applicant should, at minimum, align the revetment with the neighboring property seawalls so that the revetment does not jut seaward of the adjacent hardened structures and;
3. The Department asks that the applicant become fully aware of the requirement for lateral access for the public along the shoreline in front of their property and to become familiar with the requirements of the shoreline Rules for the Maui Planning Commission.

State of Hawaii Office of Hawaiian Affairs provided the following Comments:

1. Applicant must assure the removal of any barriers that might inhibit lateral access to the public trust shoreline;
2. Expressed concerns regarding the rapidly eroding shoreline and the safety of those residents maintaining their seawalls. (Please refer to OCCL'S remarks, which address the comments provided by both the County of Maui's Planning Department and the Office of Hawaiian Affairs) labeled Exhibit (E).

Pursuant to the Board's action of June 28, 2002, under agenda item D-17 that established criteria for imposing fines for

encroachments, staff is recommending a fine of \$500 as the subject encroachment is over 100 square feet.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION: That the Board:

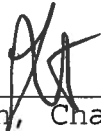
1. Impose a \$500 fine for illegal encroachment, under Section 171-6(12).
2. Authorize an easement that shall run with the land and shall inure to the benefit of the real property described as Tax Map Key:(2) 3-9-012:004, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to O. Joachim and Inge J. Granzow, Trustees of the O. Joachim Granzow and Inge J. Granzow Family Trust dated June 1, 1990, and Joachim Wilhelm and Christian Lars Granzow covering the subject area for seawall purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
 - E. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement

Respectfully Submitted,



Larry Pacheco
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





Beach Access

STATE SHORELINE
(2) 3-9-012:777
SUBJECT AREA

GRANZOW PROPERTY
(2) 3-9-012:004

Beach Access

KALAMA PARK

EXHIBIT B

Photos taken: 3/19/07

1786 Halama Street, Kihei



Boulders lining seaward boundary of subject property. Photo facing south.



Photo of back north/ west corner of property



Adjacent property to the north

Photo of shoreline area fronting adjacent neighbor to the north of subject property.

EXHIBIT C

Photos taken: 3/19/07



Photo of loose boulders used as shoreline hardening measures of subject property



Photo of boulders along seaward boundary of property

1786 Halama Street, Kīhei



Photo of shoreline area fronting adjacent property to the south.



Photo of south corner of property at the corner of adjacent neighbor's seawall

EXHIBIT "D"

Email 5:22

LINDA LINGLE
GOVERNOR OF HAWAII

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

Office of Conservation and Coastal Lands
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVICTIONS
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENDANGERED
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:PB:CC

MAY 19 2006

May 18, 2006

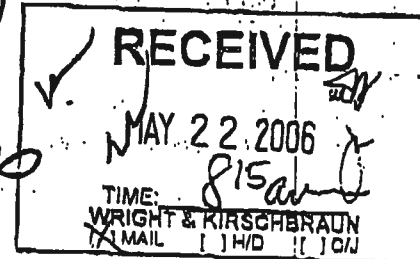
File Number Encroachment: MA-06-12

MEMORANDUM:

TO: Al Jodar, Land Agent
Land Division

FROM: Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

SUBJECT: Request to Resolve State Land Encroachment at Kihei, Maui,
TMK: (2) 3-9-012:004



This is in response to your May 12, 2006 request to resolve a state land encroachment seaward of private property at Kihei, Island of Maui.

According to information and maps contained with your request, there appears to be approximately 1,500 square feet of encroachment (revetment and beach reserve).

OCCL staff was unable to locate any construction permit or other land use authorization permits at the State or at the County Planning/Building Department for the subject improvements. However, according to a letter dated April 7, 1980, from the Deputy Planning Director to the Corporation Council of Maui, there is a possibility that the structure may have been in existence prior to October 1964.

As a consequence, DLNR cannot prove that the encroachment is a Conservation District violation and will not be asking for an after-the-fact Conservation District Use Application to cure this matter.

The Board of Land and Natural Resource (BLNR) recently established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying out this policy, the Department established criteria to guide decision-making over specific cases. The criteria are as follows:

1. Protect/preserve/enhance public shoreline access;
2. Protect/preserve/enhance public beach areas;
3. Protect adjacent properties;
4. Protect property and important facilities/structures from erosion damages; and
5. Apply "no tolerance" policy for recent or new unauthorized shoreline structures

EXHIBIT "E"

(2) 3-9-012:004

05/18/2006

In addition, the Department developed a "Shoreline Encroachment Information Sheet" that is intended to provide the State with additional information to guide the Department's decisions on the disposition of shoreline encroachments. This form has been completed and submitted.

Surrounding Land Uses:

The surrounding uses are residential in nature.

Beach Resources:

The beach resource is poor, due to regional erosion.

Public Access:

Public access to the shoreline is excellent, with a nearby shoreline access and county park.

Effect of Removing the Encroachment on:

Beach Resources: The removal of the encroachment could have a negative impact on coastal waters, if done improperly. Removal of the wall without immediate placement of erosion control measures could result in sedimentation of state waters.

Public Access: OCCL staff has determined that public access would not be enhanced by removal of the encroachment.

Affect on Adjacent Properties: It is not know what effect removal of this encroachment would have on the surrounding parcels. It is likely that the abutting northern neighbor would experience erosion, though the abutting southern neighbor, whose seawall is within their boundaries, would not be affected.

Upon review and careful consideration of the information gathered on this case, staff has determined that allowing the encroachment to remain through the issuance of an easement would have no adverse impacts on natural resources, including beach resources and public access. Therefore, the OCCL has no objections to a disposition request being processed. Pursuant to Chapter 171, the landowner is required to obtain a land disposition (normally a term easement in these cases) for the use of public lands, and you may be subject to a \$500 fine for the encroachment.

We hope this letter helps resolve some of the outstanding issues regarding the subject property. Please feel free to contact Sam Lemmo, of the Office of Conservation and Coastal Lands at 587-0381.

cc: Maui Board Member
Chairperson
Maui County

Department of Planning and Permitting
Keith D. Kirschbraun
Wright & Kirschbraun
1885 Main Street, Suite 108
Wailuku, HI 96793



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 10, 2010

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Grant of Term Non-Exclusive Easement to O. Joachim and Inge J. Granzow, Trustees of the O. Joachim Granzow and Inge Granzow Family Trust Dated June 1, 1990, and Joachim Wilhelm Granzow and Christian Lars Granzow, for Seawall and Rock Revetment Purposes, Waiohuli-Keokea Homesteads, Kihei, Maui, Seaward of Tax Map Key:(2) 3-9-012:004

Project / Reference No.: 07MD-076

Project Location: Waiohuli-Keokea Homesteads, Kihei, Maui

Project Description: Grant of easement to resolve encroachment.

Chap. 343 Trigger(s): Use of state land via grant of easement, location in the Conservation District

Exemption Class No.: In accordance with Hawaii Administrative Rules, Section 11-200-8(A), the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 4, that states: "Minor alterations in the conditions of land, water, or vegetation".

| _Consulted Parties: The Office of Conservation and Coastal Lands was consulted as a source authority having jurisdiction or expertise in this matter, and concurs that the exemption identified above is applicable to and appropriate for the proposed project.

Exemption Item Description
from Agency Exemption List: N/A

EXHIBIT "E"

Exemption Notification for Grant of Easement

June 10, 2010

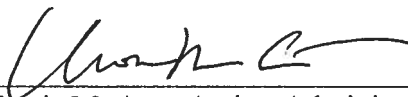
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This exemption applies since issuing an easement to allow the structure to remain in place will result in no change to the conditions of land, water and vegetation. During a recent site visit, Office of Conservation and Coastal Lands (OCCL) staff observed the subject seawall and determined it appeared to be built before 1974, prior to the enactment of the EIS law.

As the structure has been in place for a significant period of time, its continued existence through the issuance of an easement should not have any further cumulative impact on the surrounding environment.

Recommendation:

It is anticipated this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



Morris M. Atta, Acting Administrator

5/25/10

Date